IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 1530 OF 2007

Ashok Shankar Shilimkar .... Petitioner

versus

Tata Motors Limited..... Respondent.

Shri V.H.Shekdar for the petitioner
Shri Kiran Bapat with D.D./Mehta i/b. Mulla & Mulla for the respondents.

CORAM; A.P. DESHPANDE, J.
DATED; 10TH APRIL, 2007

P.C.;

1. There are two unions in the respondent industry. Petitioner belongs to tempo kamgar sanghatana whereas one Mr.Gujar was belonging to tempo employees union.

2. On 14-3-1989 two groups belonging to the rival unions had altercations at the work place resulting in abuses and assault. For the said misconduct the petitioner and Gujar were placed under suspension and proceeded against in a departmental enquiry on the serious charges of misconduct. Initially though the petitioner participated in the departmental enquiry which was conducted on many dates but later on the petitioner abundaned the enquiry and did not lead any evidence whatsoever. The petitioner was also

permitted to engage an advocate. The management had examined three witnesses by name Gujar, Date and Kante. The enquiry officer on appreciation of evidence on record, found the petitioner guilty of misconduct and hence he was dismissed from service. A dispute was raised and a reference was made to the labour court. The labour court has found that the enquiry was conducted in adherence to the principles of natural justice and the findings of the enquiry officer are not perverse. Relying on the evidence and material on record, a further finding is reached that the petitioner is guilty of misconduct and hence the reference came to be answered in the negative. It is this award passed by the labour court which is challenged in the present writ petition.

3. The learned counsel for the petitioner mainly assailed the award by contending that the petitioner had been discriminated against and Mr. Gujar, was given a favourable treatment. He submits that the labour court has failed to consider the submission touching parity between the two workmen viz. the petitioner and Mr. Gujar.

4. Per contra the learned counsel Mr. Bapat appearing for the respondent submits that the case of Gujar stands on different footing and is not

comparable with the petitioner. To bring home the submission, it is contended that both employees were placed under suspension and both were proceeded against for charges of misconduct in a departmental enquiry. It is pointed out that the enquiry officer has exonerated Mr. Gujar whereas the present petitioner has been held guilty of misconduct. In this view of the matter the case of the petitioner is not comparable with the case of Mr. Gujar Relying on the report of the enquiry officer, which goes to hold the petitioner guilty of misconduct, he was dismissed from service.

5. As the award passed by the labour court is based on evidence and material on record, the same does not require to be interfered with in writ jurisdiction. The learned counsel for the petitioner has tried to contend that there is no sufficient evidence against the petitioner to hold him guilty. Sufficiency of evidence and/or appreciation of evidence will be outside the scope of writ jurisdiction. Admittedly the present case is not one of no evidence. Having regard to the seriousness of the charge, which disrupted peace and discipline at the work place, I do not feel it necessary to entertain the writ petition. The same is therefore summarily dismissed.

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